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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Eric Jordan,

10 Plaintiff,

11 v.

12 Ryan Thornell, et al.,

13 Defendants.
14

No. CV-23-00802-PHX-GMS (DMF)

ORDER

15
16 Plaintiff Eric Jordan, who has been and remains confined in an Arizona State Prison
17 Complex brought this civil rights action under 42 U.S.C. § 1983 against Defendant
18 Lieutenant Daniel J. Vance, the La Palma Correctional Center, and the Director of the
19 Arizona Department of Corrections, Rehabilitation & Reentry (ADC). Upon screening of
20 Plaintiff's May 2023 Complaint (Doc. 1), the Court ordered that Defendant Vance must
21 answer the excessive force claim in Count One in his individual capacity only, and the
22 Court dismissed the remaining claims and defendants (Doc. 8).

23 On August 30, 2024, Defendant moved for dismissal of Plaintiff's claim and this
24 action pursuant to Federal Rules of Civil Procedure 37(b)(2)(A)(v) and 41(b). (Doc. 43 at
25 1). The motion was served on Plaintiff by mail (*Id.* at 6). The Court issued an order
26 notifying Plaintiff of his obligation to respond to the motion to dismiss and the Court set a
27 briefing schedule (Doc. 44). Plaintiff has failed to respond to the pending motion to dismiss
28 and the time to do so has expired. Plaintiff has not made any filings since July 2024.

1 The Court will adopt the R&R and grant Defendant's Motion to Dismiss.

2 This Court "may accept, reject, or modify, in whole or in part, the findings or
3 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). It is "clear that
4 the district judge must review the magistrate judge's findings and recommendations de
5 novo *if objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d
6 1114, 1121 (9th Cir. 2003) (*en banc*); accord *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
7 1226 (D. Ariz. 2003) ("[f]ollowing *Reyna-Tapia*, this Court concludes that *de novo* review
8 of factual and legal issues is required if objections are made, 'but not
9 otherwise'"); *Klamath Siskiyou Wildlands Ctr. v. U.S. Bureau of Land Mgmt.*, 589 F.3d
10 1027, 1032 (9th Cir. 2009) (the district court "must review de novo the portions of the
11 [magistrate judge's] recommendations to which the parties object"). District courts are not
12 required to conduct "any review at all . . . of *any issue* that is not the subject of
13 an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (emphasis added); *see also* 28
14 U.S.C. § 636(b)(1) ("[a] judge of the court shall make a de novo determination of those
15 portions of the [R&R] to which objection is made").

16 Neither party filed objections to the Court's October 22, 2024 R&R. The Court is
17 therefore not obligated to review the R&R. *See United States v. Reyna-Tapia*, 328 F.3d
18 1114, 1121 (9th Cir. 2003) (*en banc*); Fed. R. Civ. P. 72(b)(3) ("[t]he district judge must
19 determine de novo any part of the magistrate judge's disposition that has been properly
20 objected to").

21 Even so, the Court has reviewed Judge Fine's R&R. As set forth above, Plaintiff
22 has failed to respond to Defendant's Motion to Dismiss and has abandoned his case and
23 failed to comply with the Court's orders.

24 **IT IS ORDERED:**

25 (1) The Report and Recommendation (Doc. 46) is adopted and the pending
26 motion to dismiss (Doc. 43) is granted.

27 (2) The Clerk of Court is directed to enter Judgment accordingly.

28 / / /

1 (3) This action is dismissed without prejudice and the Clerk of Court is directed
2 to terminate the matter.

3 Dated this 16th day of December, 2024.

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5 G. Murray Snow

6 Senior United States District Judge
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